In the High Court of Punjab and Haryana, Chandigarh

F.A.O. No. 628 of 1987

Date of Decision: September 20, 2006

Kulwant Kaur and others

…Appellants

Versus

Om Parkash and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

PRESENT: None for the parties

JUDGMENT

M.M. KUMAR, J. (Oral)

This is claimants appeal filed under Section 110-D of the Motor Vehicles Act, 1939 (for brevity, 'the Act') challenging award of the Motor Accident Claims Tribunal, Ludhiana (for brevity, 'the Tribunal'), dated 8.5.1987. There are categorical findings that the accident had taken place on account of rash and negligence driving of the bus driver-respondent No. 1. It has further been found that the deceased was graduate and he would have earned Rs. 750/- per month as a driver. After applying the principle of defraying 1/3rd personal expenses from the assessed income, the dependency of the claimants has been determined at Rs. 500/- per month and Rs. 6,000/- per year. The age of the deceased was about 29 years at the time of his death

and by citing the age of the mother of the deceased to be 55 years it has been found by the Tribunal that average life expectancy in the family of the deceased was upto 65 years. However, it has applied the multiplier of 16.

Having perused the award and the record of the Tribunal, I am of the considered view that the finding with regard to rash and negligent driving of the driver-respondent No. 1 has to be affirmed, especially when there is neither any appeal nor any cross-objection preferred by the respondents. The only question which needs to be considered is whether the multiplier of 16 is to be upheld or benefit of Schedule II appended to the Motor Vehicles Act, 1988 deserves to be given to the claimant-appellants. I find that according to the Schedule II if the victim is 25 to 30 years of age then multiplier of 18 is ordinarily given. Although Schedule II has been appended with the later Act of 1988, yet it has been held by Hon'ble the Supreme Court in para 22 of the judgment in the case of **Kushnawa Begam v. New India Assurance Company Limited, (2001) 2 SCC 9**, that even in respect of cases arising out of the old Act of 1939, it can be used as a safe-guide. Accordingly, a multiplier of 18 as provided by Schedule II should be applied. I am further of the view that the deceased was a young man and could have easily enhance his future prospects, which could be an additional factor for enhancing the multiplier provided by the Schedule. Accordingly, the multiplier of 18 is applied instead of 16 and the award is enhanced to Rs. 1,08,000/-.

In view of the above, the respondents are directed to pay the compensation of Rs. 1,08,000/- to the claimant-appellants with interest @ 12% per annum from the date of the application, which is 25.7.1986, till the date of its payment. The amount shall be payable by the respondents jointly and severally. However, the amount has to be recovered firstly from respondent Nos. 2 and 3. The enhanced amount shall be apportioned in the same ratio as has been done by the Tribunal. However, there shall not be any order as to costs.

(M.M. KUMAR)
JUDGE

September 20, 2006
Pkapoor